

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

United States of America,

Plaintiff,

vs.

Juan Morales Garza III,

Defendant.

No. CR-95-0320-9-PHX-RCB

**FINDINGS AND RECOMMENDATION
OF THE MAGISTRATE JUDGE
UPON AN ADMISSION AND ORDER**

TO THE HONORABLE ROBERT C. BROOMFIELD, SENIOR U.S. DISTRICT JUDGE:

Upon Defendant's request to enter an admission to the allegation that he violated conditions of supervised release, this matter was referred to U.S. Magistrate Judge David K. Duncan for a hearing on May 7, 2013 with the written consents of the Defendant, counsel for the Defendant, and counsel for the United States of America.

In consideration of that hearing and the statements made by the Defendant under oath on the record and in the presence of counsel, and the remarks of the Assistant United States Attorney,

I FIND as follows:

- (1) that the Defendant is competent to admit the violation(s);
- (2) that the Defendant understands his right to an evidentiary hearing and has knowingly and voluntarily waived his right to that hearing;
- (3) that the Defendant understands the sentencing options the Court may impose as a result of his admission;

1 (4) that the Defendant understands the nature of the allegations against him;

2 (5) that the Defendant has admitted he committed the violation(s) of supervised
3 release as alleged in the petition(s) and as more particularly described in the Clerk's Minute
4 Entry;

5 (6) that there is a factual basis for the Defendant's admission;

6 (7) that the Defendant is satisfied with counsel's representation; and

7 (8) that the admission by Defendant has been knowingly and voluntarily made
8 and is not the result of force or threats or of promises between the parties.

9 **I RECOMMEND** that the Court accept the Defendant's admission of the
10 violation(s) of supervised release.

11 **IT IS ORDERED** that any objection to the admission to a violation of supervised
12 release proceedings and any request for supplementation of those proceedings be made by
13 the parties in writing and shall be specific as to the objection or request made. All
14 objections or requests for supplementation shall be filed within fourteen (14) days of the
15 date of service of a copy of these findings unless extended by an Order of the assigned
16 District Judge.

17 **IT IS FURTHER ORDERED** that any letters, documents, or other matters
18 Defendant would like the sentencing judge to consider before sentencing (including the
19 English translation of any writings not in English) must be submitted in paper form with the
20 original to the probation office and copies to the sentencing judge and opposing counsel no
21 later than five (5) business days prior to the sentencing date or they may be deemed
22 untimely by the sentencing judge and not considered. No more than ten (10) character
23 letters shall be submitted by defense counsel, unless otherwise ordered by the Court.
24 Character letters shall not be mailed directly to the sentencing judge by any family members
25 or other persons writing in support of Defendant. Character letters or a notice of service
26 of such letters shall not be filed electronically unless otherwise ordered by the Court.

1 **IT IS FURTHER ORDERED** that any motions for upward or downward
2 departures or any sentencing memoranda must be filed at least seven (7) business days prior
3 to the sentencing date. Responses are due three (3) business days prior to the sentencing
4 date. Any motion to continue the sentencing must be filed promptly upon discovery of the
5 cause for continuance and must state the cause with specificity. Motions to continue
6 sentencing filed less than fourteen (14) days before sentencing are disfavored.

7 DATED this 8th day of May, 2013.

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David K. Duncan
United States Magistrate Judge